

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHARLES W. EDWARDS,

Plaintiff,

v.

CASE NO. 05-70086

HON. LAWRENCE P. ZATKOFF

MAGISTRATE JUDGE VIRGINIA M. MORGAN

JO ANNE B. BARNHART
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER

I. Introduction

Plaintiff filed the instant action seeking Social Security disability insurance benefits. On November 22, 2005, the Court adopted Magistrate Morgan's Report and Recommendation, remanding the case to the Commissioner for a determination of Plaintiff's past relevant work and residual functional capacity. This matter is currently before the Court on Plaintiff's request for attorney fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Defendant has filed a response, and Plaintiff has replied to the response.

I. Discussion

The EAJA "requires the payment of fees and expenses to the prevailing party in an action against the United States, unless the position of the United States was substantially justified." *Howard v. Barnhart*, 376 F.3d 551, 553 (6th Cir. 2004). The Commissioner's position is substantially justified when it has a reasonable basis in law and fact. *Id.* at 554. The